

**IN THE  
SUPREME COURT OF INDIANA**

**CASE NUMBER:**

**ORDER AMENDING RULES FOR ADMISSION TO THE BAR AND  
THE DISCIPLINE OF ATTORNEYS**

Under the authority vested in this court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 3, 6, 15, 20, 23(10), 23(16), 23(21), 28 and 31 of the Indiana Rules for Admission to the Bar and the Discipline of Attorneys are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

**RULES FOR ADMISSION TO THE BAR  
AND THE DISCIPLINE OF ATTORNEYS**

**Rule 3. Admission of Attorneys**

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**Section 2. Limited Admission on Petition.**

(a) Requirements for Limited Admission on Petition.

A member of the bar of another state or territory of the United States, or the District of Columbia, may appear in the Supreme Court, the Court of Appeals, the Tax Court, or the trial courts of this state in any particular proceeding, if the court before which the attorney wishes to appear determines that there is good cause for such appearance and each of the following conditions is met:

- (1) A member of the bar of this state has appeared and agreed to act as co-counsel.

(2) The attorney is not a resident of the state of Indiana, regularly employed in the state of Indiana, or regularly engaged in business or professional activities in the state of Indiana.

(3) The attorney files a verified petition stating:

(i) The attorney's residential address, office address, and the name and address of the attorney's law firm or employer, if applicable;

(ii) The states or territories in which the attorney has ever been licensed to practice law, including the dates of admission to practice and any attorney registration numbers;

(iii) That the attorney is currently a member in good standing in all jurisdictions listed in (ii);

(iv) That the attorney has never been suspended, disbarred or resigned as a result of a disciplinary charge, investigation, or proceeding from the practice of law in any jurisdiction; or, if the attorney has been suspended, disbarred or resigned from the practice of law, the petition shall specify the jurisdiction, the charges, the address of the court and disciplinary authority which imposed the sanction, and the reasons why the court should grant limited admission notwithstanding prior acts of misconduct;

(v) That no disciplinary proceeding is presently pending against the attorney in any jurisdiction; or, if any proceeding is pending, the petition shall specify the jurisdiction, the charges and the address of the disciplinary authority investigating the charges. An attorney admitted under this rule shall have the continuing obligation during the period of such admission promptly to advise the court of a disposition made of pending charges or the institution of new disciplinary proceedings;

(vi) A list of all proceedings, including caption and cause number, in which either the attorney, or any member of a firm with which the attorney is currently affiliated, has appeared in any of the courts of this state during the last five years. Absent special circumstances, repeated appearances by any person or by members of a single law firm pursuant to this rule shall be cause for denial of the petition;

(vii) A demonstration that good cause exists for the appearance. Good cause shall include at least one of the following:

(a) the cause in which the attorney seeks admission involves a complex field of law in which the attorney is a specialist, or

(b) there has been an attorney-client relationship with the client for an extended period of time, or

- (c) there is a lack of local counsel with adequate expertise in the field involved, or
- (d) the cause presents questions of law involving the law of the foreign jurisdiction in which the applicant is licensed, or
- (e) such other reason similar to those set forth in this subsection as would present good cause for the *pro hac vice* admission.

(viii) A statement that the attorney has read and will be bound by the Rules of Professional Conduct adopted by the Supreme Court, and that the attorney consents to the jurisdiction of the State of Indiana, the Indiana Supreme Court, and the Indiana Supreme Court Disciplinary Commission to resolve any disciplinary matter that might arise as a result of the representation.

(ix) A statement that the attorney will file a Notice of *Pro Hac Vice* Admission with the clerk of this court in compliance with Section (b) of this rule within thirty (30) days after the court grants permission to appear in the proceeding.

(b) Notice of *Pro Hac Vice* Status.

All attorneys admitted *pro hac vice* under the provisions of Section 2(a) shall file a Notice with the clerk of the Supreme Court within thirty (30) days after a court grants permission to appear in the proceeding. A separate Notice must be filed for each proceeding in which a court grants permission to appear. Failure to file the notice within the time specified will result in automatic exclusion from practice within this state. The notice shall include the following:

(1) A current statement of good standing issued to the attorney by the highest court in each jurisdiction in which the attorney is admitted to practice law;

(2) A copy of the verified petition requesting permission to appear in the court proceedings, along with the court order granting permission;

(3) A list of all grievances, petitions, or complaints filed against the attorney with any disciplinary authority of any jurisdiction, with the determination thereon.

(c) Registration Fee for Attorney Admitted *Pro Hac Vice*.

At the time of the filing of the Notice required by Section 2(b) of this Rule, the attorney shall pay to the clerk of the Supreme Court the annual registration fee required of members of the bar of this state as set out in Admission and Discipline Rule 23, Section 21. Thereafter, if the attorney continues to appear in any case pending as of the first day of a new calendar year, the attorney will continue to pay the required registration fee, which shall be due within thirty (30) days of the start of that calendar year.

(d) Responsibilities of Attorneys.

Members of the bar of this state serving as co-counsel under this rule shall sign all briefs, papers and pleadings in the cause and shall be jointly responsible therefor. The signature of co-counsel constitutes a certificate that, to the best of co-counsel's knowledge, information and belief, there is good ground to support the signed document and that it is not interposed for delay or any other improper reason.

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## **Rule 6. Admission on Foreign License**

### **Section 1. Provisional License**

A person who has been admitted to practice law in the highest court of law in any other state (herein defined as state or territory of the United States or the District of Columbia), may be granted a provisional license ~~provisionally admitted~~ to practice law in Indiana upon a finding by the State Board of Law Examiners that said person has met each of the following conditions:

(a) The applicant has actively engaged in the practice of law for a period of at least five (5) of the seven (7) years immediately preceding the date of application. ~~“Engaged~~ Actively engaged in the practice of law” shall mean:

- (i) ~~regularly~~ performing legal services for the general public as a lawyer for at least 1,000 hours per year; or
- (ii) employment ~~on a full-time salaried basis~~ by a state or local governmental or business entity as a lawyer performing duties ~~of~~ for which admission to the practice of law is a prerequisite for at least 1,000 hours per year; or
- (iii) ~~teaching law performing the duties of a teacher of law~~ on a full-time basis in an ABA accredited law school; or
- (iv) serving as a judge of a court of record on a full-time basis; or
- ~~(v) a combination of the above.~~
- (v) serving on a full-time salaried basis as an attorney with the federal government or a federal governmental agency including service as a member of the Judge Advocate General’s Department of one of the military branches of the United States; or
- (vi) a combination of the above.

(b) The practice of law must have been in the jurisdiction where the applicant is licensed and during the period of licensure unless the practice falls under (iii) or (v) above. Practice under a business counsel license admission as defined in Section 2 shall apply toward years of practice for a maximum of five (5) years so long as the application for provisional license admission is made within seven (7) years of the grant of the initial business counsel license.

~~(b)~~ (c) The applicant is a member in good standing of the bar(s) of admission.

- ~~(e)~~ (d) The admission of the applicant is in the public interest.
- ~~(d)~~ (e) The applicant meets the character and fitness requirements of Indiana.
- ~~(e)~~ (f) The applicant has paid or tendered the required fee.
- ~~(f)~~ (g) The applicant has not failed the Indiana Bar Examination within ~~two (2)~~ five (5) years of the date of application.
- (h) The applicant has graduated from an ABA accredited law school.
- ~~(g)~~ (i) The applicant has filed ~~along with the application~~ an affidavit of the applicant's intent to engage ~~actively and predominately~~ in the practice of law ~~in Indiana as defined in Section 1(a) predominantly in Indiana.~~ "Predominantly" means that the applicant's practice in Indiana must exceed, or be equal to, his or her practice in all other jurisdictions combined.

## **Section 2. Business Counsel License**

A person who has been admitted to practice law in the highest court of law in any other state who becomes a resident of Indiana to accept or continue employment by a person or entity engaged in business in Indiana other than the practice of law, whose practice complies with Section 1(a)(ii), and is, or will be, devoted solely to the business of such employer, and who receives, or will receive, his or her entire compensation from such employer for applicant's legal services, may be granted a business counsel license to practice law in Indiana, without examination, so long as:

- a) such person remains in the employ of, and devotes his or her time as set forth in Section 1(a)(ii) to the business of, and receives compensation for legal services from no source other than applicant's said employer;
- b) the applicant is a member in good standing of the bar(s) of admission;
- c) the admission of the applicant is in the public interest;
- d) the applicant meets the character and fitness requirement;
- e) the applicant has paid or tendered the required fee;
- f) the applicant has not failed the Indiana Bar Examination within five (5) years of the date of application; and,
- g) the applicant has graduated from an ABA accredited law school.

Upon the transfer of such employment outside the State of Indiana, the right to practice law in Indiana shall terminate. Upon the termination of such employment, the right to practice law in Indiana shall terminate unless 1) such business counsel license admittee has secured employment from another person or entity within three (3) months of their termination, which employment meets the criteria of Section 2; or 2) such business counsel license admittee shall have been admitted to practice law in this state pursuant to some other rule.

## **Section 2 3. Fees**

The applicant shall submit his application accompanied by a fee of ~~seven hundred fifty dollars (\$750.00)~~ eight hundred dollars (\$800.00). The Executive Director of the Board may refer said application to the National Conference of Bar Examiners for

investigation and report. The Board is authorized to pay all expenses incident to the investigation of the qualifications of the applicant. However, in the event said application is considered and denied by the Board prior to referral to the National Conference, the Board is authorized to refund to the applicant one half (1/2) of the application fee. No part of the application fee shall otherwise be refunded.

#### **Section 3-4. Renewal of Provisional License and Business License**

~~Said~~ A provisional license admission on a foreign license may continue in force for one year, and may be renewed for a like period upon the submission of such verified individualized information as will demonstrate to the satisfaction of the Board that the applicant has during the past year been both (a) actively engaged in the practice of law as defined in Section 1(a), and (b) predominantly in Indiana. Each application for renewal of provisional license admission shall be accompanied by a fee of fifty dollars (\$50.00). Upon the fifth consecutive renewal provisional license granted to the applicant, the admission to practice shall be permanent. A business counsel license may continue in force for one year, and may be renewed for a like period for a maximum of four (4) additional years upon the submission of such verified individualized information as will demonstrate to the satisfaction of the Board that the applicant has during the past year been employed under the terms of the business counsel license and will continue to be so employed. A fee of fifty dollars (\$50) shall accompany each application for renewal of a business counsel license.

#### **Section 4 5. Education Requirements for Provisional License and Business Counsel License**

Within twelve (12) months of an applicant's initial provisional license or business counsel license admission, the applicant shall attend an annual Indiana law update forum, which forum shall provide a minimum of 12 hours of continuing legal education which has been approved by the Indiana Commission For Continuing Legal Education. Applicants provisionally or permanently admitted on foreign license provisional license or business counsel license are subject to, and shall comply with, the Admission and Discipline Rule Indiana Rules For Admission to the Bar and the Discipline of Attorneys, the Rules of Professional Conduct, and all other requirements of statute and Supreme Court Rules.

#### **Section 5 6. Application of Rules and Appearance Before Board**

The provisions of Rule 12, Sections 7, 8, and 9 apply to admission under this Rule. An applicant for admission on foreign license who is denied admission may request an appearance before the Board and a hearing thereafter.

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## **Rule 20. Immunity**

### **Section 1. Persons Providing Information to the State Board of Law Examiners.**

Every person or entity shall be immune from civil liability for providing, in good faith, documents, statements of opinion, records, or other information regarding an applicant or potential applicant for admission to the bar of this State to the State Board of Law Examiners; to its officers, Executive Director, staff, employees or agents; or to the Committees on Character and Fitness and their members and agents.

### **Section 2. Immunity for Board, Staff and Character and Fitness Committee.**

The State Board of Law Examiners and its officers, members, Executive Director, staff, employees and agents, and the Committees on Character and Fitness and their members and agents, are immune from all civil liability for acts performed in the course of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

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## **Rule 23. Disciplinary Commission and Proceedings**

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### **Section 10. Investigatory Procedures**

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(f) An attorney who is the subject of an investigation by the Disciplinary Commission may be suspended from the practice of law upon a finding that the attorney has failed to cooperate with the investigation.

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(5) Upon the disposition of any show cause petition filed pursuant to subsection (f)(2), above, resulting in either dismissal due to the respondent's subsequent cooperation or suspension from the practice of law, the Commission may seek an order reimbursing the Commission in the amount of \$500 plus out-of-pocket expenses for its time and effort in seeking the order in addition to all other costs and expenses provided for by Section 17 of this rule. An attorney who fails to pay the reimbursement, costs, or expenses assessed pursuant to this section shall be subject to the provisions of Section 21(j) of this Rule.

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### **Section 16. Expenses**

The judgment of this Court imposing discipline will normally include an order that the respondent pay the costs and expenses of the proceeding. The Executive Secretary shall prepare an itemized statement of expenses allocable to each case, including expenses incurred in the course of the investigatory, hearing or review procedures under this Rule. The Executive Secretary shall include in the itemized statement of expenses, a fee of \$100 payable to the Clerk of this Court, as reimbursement for the Clerk's processing of all papers in connection with the proceeding. Proceedings for the collection of the costs taxed against the respondent may be initiated by the Executive Secretary on the order approving expenses and costs entered by this Court. An attorney who fails to pay costs and expenses assessed pursuant to this section shall be subject to the provisions of Section 21(j) of this Rule.

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## **Section 21. Annual Registration Fee**

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(j) An attorney who fails to pay costs, expenses and reimbursements assessed pursuant to Section 10(f)(5) or 16 of this Rule by the due date of the annual registration fee required under subsection (a) or (b) shall be subject to an order of suspension from the practice of law as provided for in subsection (e).

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## **~~Rule 28. Indiana Judicial Council on Legal Education and Competence at the Bar~~**

~~Pursuant to the constitutional and inherent powers of this Court, as they relate to competence of attorneys, there is hereby created the Indiana Judicial Council on Legal Education and Competence at the Bar. By this rule, the Court defines the purposes, responsibility and goals of the council in the areas of legal education and competence at the bar, as follows:~~

### **~~Purposes~~**

~~(1) The purposes of the council shall be to consider, discuss, survey and inquire about the conditions, standards and didactic programs which affect the effective assistance of counsel in Indiana state and federal courts.~~

~~(2) The council may from time to time make recommendations to the Supreme Court of Indiana or the Indiana State Board of Law Examiners or U.S. District Courts in Indiana or other authorities on standards or criteria which might be adopted for admission to practice law before the state and federal courts of Indiana, and make recommendations concerning the need for and the implementation of continuing legal education for lawyers and judges.~~



~~(3) The council may seek information from any source which will assist it in fulfilling its responsibilities and will further its understanding of conditions and standards which affect the effective assistance of counsel in Indiana state and federal courts.~~

~~(4) The council shall meet from time to time in Indiana and it may issue statements, comments and reports in its name or by a member so designated and authorized by the council.~~

#### **Membership**

~~(1) The voting members of the council shall consist of members appointed from the Indiana state and federal judiciary and practicing members of the Indiana bar.~~

~~(2) Consultants to the council shall consist of other members of the Indiana bar and other persons appointed in that capacity.~~

#### **Expenses**

~~All members and consultants of the council shall serve without pay but shall be reimbursed their actual expenses including travel, meals and lodging, to be paid from the budget of the Supreme Court of Indiana.~~

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#### **Rule 31. Judges and lawyers Assistance Program**

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#### **PROGRAM GUIDELINES FOR THE INDIANA JUDGES AND LAWYERS ASSISTANCE PROGRAM**

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#### **Section 4. Policies.**

(a) JLAP designs and delivers programs to raise the awareness of the legal community about potential types of impairment and the identification, prevention and available resources for treatment and/or support.

(b) JLAP works toward increasing the likelihood of recovery by encouraging early identification, referral and treatment.

(c) Any person may report to the director, clinical director, or any member of the committee that a particular member of the bar needs the assistance of JLAP.

(d) JLAP encourages and welcomes contact by any means; However, the confidentiality of e-mail communications is subject to the limitations inherent in Internet transmissions. ~~responses will be prioritized as follows: walk in, telephone call, e-mail, and written communication.~~

(e) Neither JLAP, nor any representative, in their role as a volunteer, engages in the practice of law while fulfilling their JLAP responsibilities. Upon admission to inpatient or residential treatment, or with a physical disability case, JLAP may:

1) work with the participant to find friends and/or colleagues to assist with the law practice;

2) work with the relevant local and state bar association committees to assist with the practice;

3) should no other arrangements be possible, attempt to facilitate movement of a participant's case files to the respective clients upon receipt of written permission from the participant.

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#### **Section 6. Services.**

(a) Any member is eligible for assistance and participation in JLAP. JLAP services will be provided without charge for initial consultation, in house assessment, referral, and peer support, ~~and monitoring services.~~

(b) Referrals for medical and/or clinical evaluations, treatment, therapy and aftercare services will be provided; engagement of, and payment for, such services is solely the responsibility of the participant.

(c) Participants entering into a monitoring agreement with JLAP due to an official referral or upon their own initiative may be charged a monthly fee pursuant to JLAP's fee policy as approved by the Supreme Court from time to time.

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The amendments to Admission and Discipline Rule 23 shall take effect on August 1, 2003. All other amendments shall take effect January 1, 2004.

The Clerk of this Court is directed to forward a copy of this order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court;

Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this \_\_\_\_\_ day of July, 2003.

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Acting Chief Justice of Indiana

All Justices concur.